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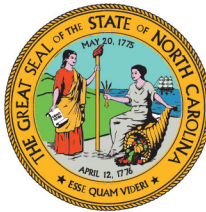
Governor

MICHAEL S. REGAN

Secretary

S. DANIEL SMITH

Director



NORTH CAROLINA
Environmental Quality

30 April 2020

MEMORANDUM

To: S. Daniel Smith, Director
Division of Water Resources

From: Lon T. Snider, Regional Supervisor ^{DS} LTS
Water Quality Regional Operations Section
Winston-Salem Regional Office

Subject: Hearing Officer's Report and Recommendations
Cane Creek Water and Sewer District of Henderson County
Metropolitan Sewerage District of Buncombe County

I served as the Hearing Officer for a public hearing held in-person on March 12, 2020, at 7:00 pm at the West Henderson High School auditorium in Hendersonville, North Carolina as well as a conference call public hearing held on April 27, 2020, at 6:00 pm at phone number 1-828-694-6450. The purpose of these public hearings was to allow the public to comment on the proposed inclusion of the Cane Creek Water and Sewer District of Henderson County (Cane Creek) into the Metropolitan Sewerage District of Buncombe County (MSD), in accordance with NCGS 162A-68.5.

The report has been prepared using the following outline:

- I. Introduction
- II. Facility Background
- III. Public Record & Comments with Responses
- IV. Recommendations
- V. Attachments



North Carolina Department of Environmental Quality | Division of Water Resources
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HEARING OFFICER REPORT
for the
Proposed Merger between the Metropolitan Sewerage District of Buncombe County and
the Cane Creek Water and Sewer District of Henderson County
GS 163A-68.5

This report is presented to the Director of the North Carolina Division of the Water Resources

INTRODUCTION

In accordance with NCGS 162A-68.5, the Metropolitan Sewerage District of Buncombe County (MSD) and the Cane Creek Water and Sewer District (Cane Creek) have requested approval for their merger from the Environmental Management Commission. In accordance with that statutes, a public hearing was conducted to gather public input and interest on the proposed merger.

A Public Notice for an in-person hearing was published in the Weaverville Tribune on February 5, 2020 and in the Hendersonville Lightning on February 6, 2020, and in the Citizen Times on February 28, 2020, March 4, 2020, and March 6, 2020. The Notice was also posted on the Henderson County courthouse door starting February 6, 2020. This public hearing was held in Hendersonville, NC at the West Henderson High School auditorium on March 12, 2020. Approximately ten (10) individuals attended the in-person public hearing, not inclusive of Department staff. Two (2) people provided comments during the public hearing relative to the merger being considered. The public comment period was open until March 12, 2020. Lon T. Snider, Regional Supervisor in the Winston-Salem Regional Office with the Division of Water Resources, served as the Hearing Officer.

A procedural error regarding the public notice was discovered on the day of the hearing. The Division counsel and Public Information Officer advised that the hearing be held regardless since it had been formally noticed. At a later date, Division staff and the EMC counsel determined that the procedural error needed to be corrected, and a second public hearing was scheduled as a conference call to allow the hearing to be held in compliance with the stay at home order, with approval for the conference call procedure given by both the Division counsel and the EMC counsel.

Subsequently, a Public Notice for an April 27, 2020 conference call public hearing was published in the Hendersonville Tribune on March 26th, April 2nd, April 9th, and April 16th of 2020 and in the Hendersonville Lightning on March 25th, April 1st, April 8th, and April 15th of 2020. This public hearing was held on conference call number 1-828-694-6450. No one from the public attended the conference call public hearing, but two representatives of Henderson County were in attendance, not inclusive of Department staff. The public comment period was open until April 27, 2020. Lon T. Snider, Regional Supervisor in the Winston-Salem Regional Office with the Division of Water Resources, again served as the Hearing Officer.

The purpose of these hearings was to obtain public comment on the proposed merger between MSD Buncombe and the Cane Creek Water and Sewer District. This Hearing Officer Report summarizes any issues raised through the public hearing process, as well as the Hearing Officer

recommendations for the proposed merger. The Director of the Division of Water Resources (DWR) will take final action on these recommendations.

BACKGROUND

Article 5 of Chapter 162A of the NC General Statutes was amended in 2019 to include an alternate procedure for the inclusion of additional political subdivisions. This statute, 162A-68.5, was found to govern the proposed merger between the Metropolitan Sewerage District of Buncombe County (MSD) and the Cane Creek Water and Sewer District (Cane Creek). In accordance with the requirements of this statute, MSD and Cane Creek submitted the required documentation to the Division and the EMC, which included the following documentation:

- A copy of the resolution by the Henderson County Board of Commissioners requesting inclusion of Cane Creek into MSD,
- Background information detailing how Cane Creek contracts with MSD for bulk service, that MSD has installed a portion of a sewerage disposal system into Cane Creek (Henderson County), and that MSD provides sewerage service to the customers of Cane Creek as of the date of the resolution provided by the Henderson County Board of Commissioners,
- Maps depicting the current/future boundaries of MSD and Cane Creek as well as the combined district, the existing sewerage systems, and proposed future extensions,
- A description of the proposed extensions of sewerage services by MSD into Cane Creek, including a time schedule and estimated costs,
- And a fiscal analysis of the inclusion of Cane Creek into MSD.

Upon review of this information by Division staff, Christyn Fertenbaugh appeared before the Water Quality Committee (WQC) of the EMC on November 13, 2019, to present the provided information and request approval to proceed to appear before the EMC. After discussion, the WQC unanimously approved the matter to appear before the EMC in January.

On January 9, 2020, Division staff appeared before the EMC to request approval to hold the public hearing in accordance with NCGS 162A-68.5. The EMC unanimously approved the public hearing to proceed forwards.

Division staff anticipate appearing before the EMC on May 7, 2020, to present the results of the two hearings and request that the EMC adopt a resolution expanding and defining the boundaries of MSD to include Cane Creek in MSD.

PUBLIC RECORD

The Division conducted a public hearing in Hendersonville, NC on March 12, 2020. Approximately ten (10) individuals attended the in-person public hearing, not inclusive of Department staff. Two (2) people provided comments during the public hearing relative to the

merger being considered. Attendees and speakers included Marcus Jones of Henderson County (speaker), members of the Henderson County Board of Commissioners, staff of both MSD and Cane Creek, a current customer of Cane Creek, and Division staff. Neither Henderson County nor the Division received written comments from either hearing or notice period.

1. Oral Comments from Bob Davy, Fletcher Town Council:

- Mr. Davy's comment was to state that he would like to see everyone treated equally and that people will be paying the same rates regardless of which area they are located. He was concerned that historically, Cane Creek customers paid different rates than MSD customers.

Response 1: No response necessary.

2. Oral Comments from Tom Hartye, MSD General Manager:

- Mr. Hartye's comment was to state that they intend to treat the customers of Cane Creek just like the MSD customers, in all aspects, which shall include but is not limited to rates, billing practices, and emergency services.

Response 2: No response necessary

HEARING OFFICER RECOMMENDATIONS

The Division has reviewed the submitted documentation, including the results of the public hearings, and has concluded that the requirements of NCGS 162A-68.5 have been met to proceed forward. I recommend to the Division Director that the Division requests that the EMC shall adopt a resolution expanding and defining the boundaries of MSD to include Cane Creek into MSD, with an effective date of July 1, 2020.

DocuSigned by:
Lon T Snider
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Lon T. Snider, Hearing Officer
Regional Supervisor, NC DEQ-DWR-WSRO

5/1/2020

Date

APPENDICES

- A. Presentation from the Public Hearing
- B. Hearing Registration Sheets

Environmental Management Commission

Public Hearing: Consolidation of Cane Creek Water and Sewer District with Municipal Sewerage District of Buncombe

March 12, 2020

Henderson County Engineering



Presentation Overview

- Introductions
- MSD letter to EMC
- CCWSD Resolution
- Current MSD and CCWSD Boundaries
- Current MSD Collection System Map
- Current CCWSD Collection System Map
- Benefits of Consolidation

Henderson County Engineering



NCDEQ: Environmental Management Commission

- Dr. A. Stanley Melburg, Chairman
- Dr. Suzanne Lazorick, Vice-Chair
- Lon Snider, Public Hearing Officer
(DEQ Winston-Salem Regional Office Supervisor)
- NCDEQ staff

Henderson County Engineering



Municipal Sewerage District of Buncombe (MSD)

MSD 2020 Board Members		
NAME	POSITION	REPRESENTING
M. Jerry Vehau	Chairperson	Town of Woodfin
E. Glenn Kelly	Vice Chairperson	Baltimore Forest
Jackie W. Bryson	Secretary/Treasurer	Woodfin Sanitary Water & Sewer District
Esther Manheimer	Member	City of Asheville
Chris Pelly	Member	City of Asheville
Gwen Wisler	Member	City of Asheville
Robert Pressley	Member	Buncombe County
Nathan Pennington	Member	Buncombe County
Al Whitesides	Member	Buncombe County
Robert C. Watts	Member	Town of Black Mountain
Matt Ashley, Jr.	Member	Town of Montreat
Earl Valois	Member	Town of Weaverville

- Tom Hartye,
General Manager
- William Clarke,
General Counsel

Henderson County Engineering



Henderson County Board of Commissioners (Cane Creek Board of Directors)



- Steve Wyatt, County Manager
- Russel Burrell, County Attorney
- Teresa Wilson, Clerk to the Board

Henderson County Engineering

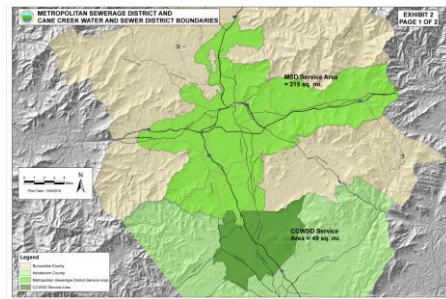


Henderson County Engineering

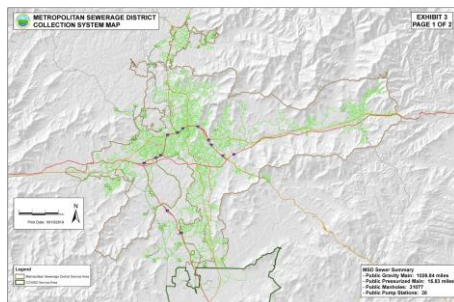




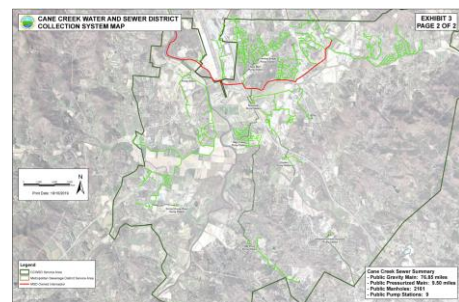
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Benefits of Consolidation

1. Regionalization of Utilities
2. Reduction in Fees to Customers

Questions....Thank you.

Henderson County Engineering



Henderson County Engineering



Please Sign In Here

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